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June 6, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

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JUN 6 1996

Federal Communications Commission  
Office of Secretary

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**Re: Ex Parte Presentation of the  
Telecommunications Resellers Association  
CC Docket Nos. 96-61, 96-68; June 5, 1996**

Dear Mr. Caton:

On June 5, 1996, Mr. Ernest B. Kelly, III, the Executive Director of the Telecommunications Resellers Association, and Ms. Laura Scher, Chief Executive Officer of Working Assets Long Distance, Inc., met with Blair Levin, Chief of Staff of the Federal Communications Commission, to discuss matters raised in TRA's Comments and Reply Comments in CC Docket Nos. 96-61 and 96-68.

Two copies of materials distributed at that meeting are attached hereto.

Respectfully submitted,



Charles C. Hunter

Attachment

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**TELECOMMUNICATIONS RESELLERS ASSOCIATION**

Federal Communications Commission  
Office of Secretary

**JUNE 5, 1996**

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**CC Docket No. 96-98: Implementation of Local Competition Provisions**

**Objectives:** Viable Opportunities for Small and Mid-Range Providers to Engage in Traditional "Total Service" Resale and "Virtual Network" Operation in Local Telecommunications Market

Deployment of Multiple "Physical" Local Networks

**Recommendations:** Commission Development of Comprehensive National "Blueprint," as well as Detailed Implementing Regulations

Unrestricted Resale Opportunities/Adequate Margins/  
Operational Support

Unrestricted Right to Acquire Unbundled Network Elements/  
Aggressive Unbundling/"Forward-Looking," Efficient,  
Incremental Costing/Non-discriminatory Access

**Principal Concern:** "Gaming" of the System by Incumbent LECs in the Market, in Negotiations, and in the State Regulatory Arena

**CC Docket No. 96-61: Proposal to Adopt 'Mandatory Detariffing' Policy**

**Key Issues:** Undermines Resale, "General Availability" and Non-discrimination Policies

Adverse impact on Competition and Consumers

Administrative Costs and Burdens

Permissive Detariffing: Worst Case Scenario for Resale

**Preferred Solution:** Relaxation of Tariffing Requirements

Bifurcated Structure

"Grandfathering" and "Fresh-Look"

**CC Docket No. 96-98:**  
**Implementation of Local Competition Provisions**  
**Avoided Costs and Wholesale Rates**

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**Margins Required to Provide for a Viable Local Resale Operation:**

At Least 30 Percent -- a Resale Requirement is Meaningless unless  
Accompanied by a Legitimate Business Opportunity

**Itemization of "Avoided Costs":**

"Avoided" Marketing, Billing, Collection and Other Costs

**"Avoided Costs" Under the Uniform System of Accounts:**

Excluded in Full:	Marketing Services :	6611 (Product Management)
		6612 (Sales)
		6613 (Product Advertising)
	Customer Services:	6621 (Call Completion Services)
		6622 (Number Services)
		6623 (Customer Services)
Excluded in Allocable Part:	Network Support:	6112 - 6116
	General Support:	6121 - 6124
	Depreciation	6561 - 6565
	Executive and	
	Planning:	6711 - 6712
	General and	
	Administrative:	6721 - 6728
	Operating Tax:	7220 - 7240

**Wholesale/Retail Differential:**

Predicated on "Avoided Costs" not "Net Avoided Costs"

**Application of Wholesale/Retail Differential:**

To All Services, including Discounted and Promotional Offerings, Customer-Specific  
Offerings and Services Priced Below Cost

# **CC Docket No. 96-61:**

## **Proposal to Adopt 'Mandatory Detariffing' Policy**

### **The Resale Industry**

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The emergence, growth and development of a vibrant telecommunications resale industry is a direct product of a series of pro-competitive initiatives undertaken, and pro-competitive policies adopted, by the Commission over the past decade. Chief among these initiatives is the requirement that "all common carriers . . . permit unlimited resale of their services," supported by the complementary policy that "[a]ctions taken by a carrier that effectively obstruct the Commission's resale requirements are inherently suspect." Also of critical importance are the twin Commission mandates that all contract-based service offerings "must be filed with the Commission and made available to all similarly-situated customers" and that carriers may not unreasonably discriminate among their resale and other customers. As the U.S. Supreme Court has recognized, tariffs are "utterly central" to these purposes; "[w]ithout [tariffs] . . . it would be monumentally difficult to enforce the requirement that rates be reasonable and nondiscriminatory . . . and virtually impossible for the public to assert its right to challenge the lawfulness of existing proposed rates."

The relationship between resale carriers and their underlying network providers is at best an awkward one, given that resale carriers are not just large customers, but aggressive competitors, of their network providers. While resale carriers, like large corporate and other major users of telecommunications services, provide very substantial revenues to network providers, they use whatever "price breaks" they secure as a result to provide rate reductions to the small and mid-sized accounts that would otherwise provide the network providers with their highest "margins." The degree of awkwardness tends to increase with the market share of the network provider.

The largest carriers often deny resale carriers access to the superior service offerings and preferred price points they make available to large corporate users with commensurate (and in far too many instances, substantially lower) traffic volumes. Resale carriers have been able to overcome such "refusals to deal" by taking "off-the-shelf" customer-specific large corporate offerings which the Commission now requires to be filed as tariffs. Where resale carriers have been able to forge their own deals with network providers, they have been able to drive rates downward by referencing large corporate rates on file with the Commission.

In a detariffed (mandatory or permissive) environment, the Commission's resale, "general availability" and non-discrimination policies will be rendered "toothless." Resale carriers will not be able to select large corporate offerings "off-the-shelf" because such offerings will no longer be filed as tariffs and without filed tariffs, only the network provider (and not the resale carrier) will know how far large corporate rates have been reduced. Network providers will be able to discriminate at will against resale carriers, unlawfully denying them, and ultimately, their small business and residential users, access to the rates and services to which they are legally entitled.